

DDA 82-0336/1

16 February 1982

MEMORANDUM FOR: Chairman, Publications Review Board


FROM: Harry E. Fitzwater
Chairman, Information Review Committee

SUBJECT: Publications Review Board Guidelines

1. These guidelines evolved as a result of a question that I posed to Lavon Strong at an IRC meeting. I asked whether he felt the PRB needed additional guidelines and his answer was yes, although most of the PRB members believe that new or additional guidelines are not needed by them.

2. In responding to a request by the DDCI to comment on the Liechty appeal case, the Executive Director suggested that I, as Chairman, Information Review Committee, prepare guidance to the PRB "on what it should consider, avoid and what needs tightening."

3. Please give me your opinion regarding these guidelines and any suggested changes that you would like to make in them.


Harry E. Fitzwater

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DDA:HEFitzwater:kmg (16 Feb 82)
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GUIDELINES FOR THE REVIEW OF NON-OFFICIAL PUBLICATIONS
AND ORAL PRESENTATIONS BY EMPLOYEES AND FORMER EMPLOYEES

General Guidelines:

STAT These guidelines are for use in the review of material related to intelligence matters, produced for communication to the public in a written or oral presentation, by persons who are, or have been employed or associated with the Agency. [] Primarily, these persons will be current and former employees, but will include persons on contract to CIA, or persons who now have or previously had official access to CIA material by reason of association through employment with private firms or with other government agencies. These may include, for example, employees of companies doing consulting work for CIA, employees of the Department of Justice, members of a Congressional staff, etc. All such persons have held a position of trust with the U.S. Government, and, as determined by the U.S. Supreme Court, they must fulfill that trust and fiduciary responsibility to protect sensitive information learned as a result of their association with the Agency.

The only information to be judged is that which was learned as a result of employment or association with the CIA, the point being that these persons, through this association, are seen by the public to be authoritative spokesmen regarding the Agency's activities, to one degree or another. When a person has spent a significant period employed at CIA, it is presumed that all information relating to intelligence matters was learned as a result of that employment unless it is sourced by the author otherwise. For those associated with CIA in other capacities or for relatively short periods of time, a similar presumption must be made commensurate with the intimacy and length of their CIA association. Where such information can be sourced outside CIA, the author is responsible for supplying source identifications and for the clarity and completeness of that sourcing.

The decision to delete information is based on a two-part judgment that (1) the information falls within one of the categories for classified information established by the executive order, and (2) that its release reasonably could be expected to cause identifiable damage to the national security. The predominate categories of information that apply to intelligence matters are those that relate to intelligence activities, sources, or methods; foreign government information; and U.S. foreign relations which includes Agency liaison relationships. In judging whether release could cause identifiable damage, the reviewer must consider the "worst case" possibility; i.e., that the individual or organization that could profit most from the released information will have access to it and be in a position to exploit it fully. It must be kept in mind that disclosure of foreign government information, or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security. When decisions are made to withhold, they should be supportable under the "reasonable man" rule. These decisions may be subjected to review from a legal standpoint but unless there is serious potential for establishing a damaging legal precedent, they will not be changed. Reviewers must also adhere to the policy, established by Executive Order (E.O.) 12065, that classification may not be used to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; to limit dissemination of information that is not classifiable under E.O. 12065; or to prevent or delay the public release of such information.

Specific Guidelines:

The following specific guidelines are intended to regularize the Agency's approach to manuscript review with the objective of improving our consistency and fairness. In making each judgment, our decisions must be supported by sound reasons and, although the Executive order provides a broad latitude for withholding information relating to intelligence matters, a specific item should be withheld only when it is determined that its release would materially contribute to the identification of a clearly discernible aspect of intelligence matters which is by itself, or in the aggregate, sensitive. The specific guidelines are:

1. These guidelines apply to information concerning the World War II period and up to the present day.
2. Manuscripts written by either a current or former employee will be reviewed against identical criteria.
3. The attitude that the author holds towards the CIA is not to be considered during the review process.
4. The views, opinions, or speculations of an author are not normally classified. When an expressed opinion, however, coincides with the official CIA position and that fact can be drawn from the context or implied by the acknowledged background of the author, it may be withheld. For example, the discussion of Intelligence Community policy, when it is known that the author had participated in the formulation of that policy, may be withheld.
5. The information contained in factual or non-fictional writing about secret intelligence work, by its very nature, falls squarely within a classification category. Such accounts may be so saturated with classified material that it would be difficult if not impossible to separate the classified material from the unclassified. In such cases the manuscript should be withheld in toto. Biographical and autobiographical accounts by persons who have been involved in secret intelligence work normally will fall within this category. When factual accounts of secret intelligence work appear in fictional writing, they may be withheld even if the names of persons and places have been changed. Organizational titles, generic terms, and tradecraft common to intelligence activity found in extant literature in the public domain may not be withheld. The question is whether there is sufficient detail to identify actual events, persons, organizations, or methods unique to this Agency, the Intelligence Community, and their activities, that could have been learned from "inside" experience only.
6. Segments of manuscripts or individual chapters will not be reviewed separately because the limited context may create the potential for damaging release stemming from the "mosaic principle." An exception may be the submission of an outline or first chapter to "test the waters," but in such cases it must be made clear to the author that the completed manuscript must be cleared before it can be released. Reviews of outlines of intended publications and speeches should include a response to the author that the clearance applies to the outline only.

7. General statements on intelligence matters may be unclassified when more specific statements may not be. [REDACTED]

[REDACTED] As a rule, when the information materially contributes to the identification of a clearly discernible aspect of the U.S. Intelligence Community's activities, that is, it provides a legitimate piece of the puzzle, that information should be withheld.

8. As noted above, the Executive order prescribes the classification of several categories of information concerning national security, some of which are automatically presumed to cause identifiable damage. When information falls within a category where damage is not automatically presumed, say in the area of U.S. foreign relations, the reviewer must determine whether release reasonably could be expected to cause identifiable damage to the national security. In making that determination the reviewer must assess the credibility of the author in the intelligence field. That credibility will be derived from the author's Agency position(s), stature, experience, expertise, and notoriety. The reviewer must judge what weight an informed person would place on the author's words. A statement by a former Director concerning a foreign policy matter, for example, may have considerable potential for damage to foreign relations, whereas the same statement by a former low-level employee may not.

9. The fact that sensitive information has previously entered the public domain should not deter the reviewer from deciding against its release in a current manuscript if he perceives that identifiable damage to the national security may result because the repetitive release will serve detrimentally to highlight or confirm the fact. If that information was not officially released, it remains classified until released by Executive disclosure, and the reviewer has every right to withhold it. If, on the other hand, the information was officially disclosed, the reviewer who perceives that identifiable damage may occur should recommend that the author be requested to withhold the information voluntarily. If the author insists upon publishing the information in either case, he should be persuaded to attribute the information to open sources. The consequences of his refusal to make that attribution may or may not become a legal issue.

10. When a sensitive item is identified for withholding from a manuscript, care must be exercised to withhold all identifiable references to it throughout the manuscript, regardless of the context within which it is found or the phrasing used. The point is to be as consistent as possible.

11. When information is being deleted, we are not obligated to suggest alternative language. Similarly, as a matter of discretion, we will not identify known errors or inaccuracies to the author. An exception can be made if the author requests our suggestions or is amenable to our noting inaccuracies.